



THE COMMONWEALTH OF MASSACHUSETTS
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MICHAEL J. SULLIVAN
DIRECTOR

March 11, 1996
AO-96-11

William B. Vernon, Executive Director
Massachusetts Republican State Committee
114 State Street
Boston, MA 02109

Re: Proposed new membership benefit for Republican Party
contributors

Dear Mr. Vernon:

This letter is in response to your February 14, 1996
request for an advisory opinion.

Facts

You have stated that the Massachusetts Republican State Committee (MRSC) is considering a proposal whereby those persons who contribute \$25 or more annually to the MRSC would be a "group" eligible for automobile insurance discounts from a particular insurance company. You plan to market the discount on one's insurance as a benefit of membership, "membership" being defined as an annual contribution to the MRSC of a set amount of money, proposed at \$25.00. Donors will be advised of the availability of discount automobile insurance in direct mail solicitations sent by the MRSC to past donors and prospective donors. Those who contribute \$25.00 or more during a calendar year will then be eligible for discount automobile insurance and will be told to contact a particular insurance agency or company. You have also stated that you are currently in the process of seeking approval of the group discount from the Insurance Commissioner's office.

Question

Is the proposal consistent with M.G.L. c. 55, the
Massachusetts campaign finance law?

Answer

Yes.

Discussion

As you have suggested, since the proposal relates to the
involvement of a corporation in political fundraising, the

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primary inquiry is whether M.G.L. c. 55, s. 8 permits the arrangement.

The first paragraph of section 8 states, in relevant part, that insurance corporations may not "directly or indirectly give, pay, expend or contribute, or promise to give, pay, expend or contribute, any money or other valuable thing for the purpose of . . . aiding or promoting or antagonizing the interest of any political party." The second paragraph of section 8 states that political party committees may not receive "any gift, payment, expenditure, contribution or promise to give, pay, expend or contribute for any such purpose" from such corporations. Because section 8 is a criminal statute, it must be narrowly construed. See Weld for Governor v. Director of OCPF, 407 Mass. 761, 766 (1990).

The proposed membership benefit plan, as described in your letter, does not involve the making of contributions by an insurance company to benefit the MRSC. We assume that the insurance company's purpose in providing discounts to individuals who happen to be members of the MRSC would be to increase the company's business, not to benefit the MRSC. In addition, we assume that the discount program would be provided by the insurance company, on the same terms and conditions, to members of any other political party committee or comparable organization with equivalent membership. Therefore, the plan would not appear to be prohibited by the first paragraph of section 8.

The plan also does not involve the receipt of discounts by the MRSC, rather, it involves the receipt, of a discount, by the MRSC's contributors. Therefore, the benefit plan is also consistent with the second paragraph of section 8. Although the plan may have the incidental benefit to the MRSC of encouraging individuals to contribute to the MRSC, that result is not barred by section 8.

Finally, the plan does not involve the MRSC in a "ongoing business or commercial venture" which is otherwise prohibited by the campaign finance law. Compare AO-93-27, in which this office concluded that a business corporation providing long-distance telephone services could not enter into an agreement with the MRSC involving the receipt by the MRSC of commissions from the corporation based on the total billed by the corporation to customers enrolled by the MRSC.

This opinion has been rendered solely in the context of M.G.L. c. 55 and on the facts stated in your letter. Should you have additional questions, please do not hesitate to contact this office.

Sincerely,



Michael J. Sullivan
Director

MJS/cp